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Test of spying mandate is thrown out of court

By Lyle Denniston
Washington Bureau of The Sun

WASHINGTON — A federal appeals court yesterday threw out a constitutional challenge to President Reagan's controversial order giving U.S. intelligence agencies added power to spy on individuals and groups in this country.

The order had been challenged in a lawsuit by political and religious groups and individual journalists, professors, politicians and members of the clergy.

The U.S. Circuit Court of Appeals here ruled that none of those protesting the order could prove that they would be spied on unconstitutionally.

In addition, the court rejected a challenge by Representative Ronald Dellums (D, Calif.), saying he was trying to use the courts to air only "a generalized grievance about the conduct of government" and not a true complaint that his powers as a congressman had been impaired.

The Circuit Court's decision does not mean that the court endorsed the presidential order's constitutionality. It merely barred the particular lawsuit. The practical effect, however, was the same: The order remains in full effect.

The president signed the order after less than a year in office, seeking to bolster the powers of the Central Intelligence Agency and the Federal Bureau of Investigation to monitor international terrorism, abroad and inside the United States.

Earlier administrations, respond-

ing to widespread revelations of illegal actions here and abroad by the CIA and FBI, had issued orders curbing those agencies' powers. The Reagan administration moved to relax those restrictions and actually to add to those powers; the result was the 1981 order.

Although the final order did not add as sweepingly to CIA and FBI intelligence-gathering activities as had earlier versions, the result still brought a considerable increase in those agencies' authority.

For the first time, the order allowed the CIA to conduct "covert operations" inside the United States, allowing its agents to infiltrate organizations inside this country if the groups were composed primarily of persons other than citizens or permanent resident aliens.

It also permits surveillance abroad of U.S. citizens and corporations, in the course of intelligence pursuits.

It also allows the CIA to collect "significant" foreign intelligence data inside this country so long as it is not the agency's aim to gather information about domestic activity of U.S. citizens and resident aliens.

The individuals and groups who challenged the order contended that some of them had been victims of illegal surveillance, electronic and physical, in the past, and that their activities were of a kind — such as foreign travel and contact with foreigners — that suggested they would be targets of such surveillance under the new order.